

SC 1980 ABDUCTION & 1996 CHILD PROTECTION

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Author	Professor Nigel Lowe and Victoria Stephens, in consultation with the PB
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Table of Contents

COVER NOTE.....	5
APPENDIX I – REGIONAL REPORT	7
A. BRUSSELS II A REGULATION	7
1. Introduction	7
2. Executive Summary	7
3. The Regulation.....	8
4. The impact of the Regulation on applications for return under the 1980 Convention	9
a. <i>The proportion of return applications to which the Regulation applied</i>	<i>9</i>
5. Outcomes	9
a. <i>Overall outcomes</i>	<i>9</i>
6. Appeals	14
a. <i>Outcomes on appeal</i>	<i>14</i>
b. <i>Multiple appeals</i>	<i>14</i>
7. Timing	14
8. Access applications	19
Annex 1: Return applications received by Brussels II a States.....	21
Annex 2: Proportion of return applications resolved within 6 weeks of receipt by the Central Authority	22
Annex 3: Number of days taken for the Central Authority to send return applications to court and the time the court then took to finalise the application	23
Annex 4: Access applications received by Brussels II a States	24
B. LATIN AMERICA AND THE CARIBBEAN	25
1. Introduction	25
2. Executive Summary	25
3. Return applications	26
4. Outcomes	26
a. <i>Overall outcomes</i>	<i>26</i>
b. <i>Comparing applications from LATAM and non-LATAM States</i>	<i>28</i>
c. <i>The applications decided in court</i>	<i>29</i>
d. <i>Judicial refusals and reasons for refusal</i>	<i>29</i>
5. Appeals	30
a. <i>Outcomes on appeal</i>	<i>31</i>
b. <i>Multiple appeals</i>	<i>31</i>
6. Timing	31
a. <i>Overall timing from the date the application was received by the Central Authority to the date of the final outcome</i>	<i>31</i>
b. <i>Timing and outcomes</i>	<i>31</i>
d. <i>Timing and appeals</i>	<i>33</i>
7. Access applications	33
C. ASIA-PACIFIC STATES	38
1. Introduction	38
2. Executive Summary	38
3. The number of return applications received	38
4. Outcomes	39
5. Appeals	41
a. <i>Outcomes on appeal</i>	<i>41</i>
b. <i>Multiple appeals</i>	<i>41</i>
6. Timing	41
a. <i>Overall timing from the date the application was received by the Central Authority to the date of the final outcome</i>	<i>41</i>
b. <i>Timing and outcomes</i>	<i>42</i>
c. <i>The time taken for Central Authorities to send the application to court and the time taken for the court to dispose of the case</i>	<i>42</i>
d. <i>Timing and appeals</i>	<i>42</i>

7. Access applications	43
(a) <i>Outcomes</i>	43
(b) <i>Timing</i>	44

Regional Report – Statistical study of applications made in 2021 under the 1980 Child Abduction Convention

Cover Note

In preparation for the Eighth Meeting of the Special Commission (SC) on the practical operation of the 1980 Child Abduction Convention (1980 Convention) and the 1996 Child Protection Convention (1996 Convention), the Permanent Bureau (PB) of the HCCH commissioned a Statistical Study to gather and analyse available data on return and access applications falling within the scope of the 1980 Convention.

The Fifth Statistical Study (Study), carried out by Professor Nigel Lowe of Cardiff University and Victoria Stephens, analyses data received concerning applications made under the 1980 Convention in 2021.

The Regional Report is the second part of the Study, following the Global Report. The Regional Report analyses region-specific data from the European Union, Latin American and the Caribbean, and Asia Pacific States.

The Regional Report has been made possible with the collection of information from 57 States¹ from the different regions covered. The PB wholeheartedly thanks the Central Authorities of the participating Contracting States that have kindly contributed with their efforts and time by providing information to the Consultants to make the results of the Regional Report possible.

The PB also thanks the People's Republic of China, Germany, the Philippines and the United Kingdom, the International Centre for Missing and Exploited Children (ICMEC) and the US Friends of the Hague Conference Foundation for their kind voluntary contributions to this Study.

At its last meeting, in 2017, the SC reaffirmed the utility of accurate statistics for the effective evaluation of the operation of the 1980 Convention (C&R Nos 2 and 76). The Study, therefore, provides timely useful information in connection to the discussions that will take place during the upcoming SC meeting.

¹ All EU Member States, except Denmark (26), 25 States from Latin America and the Caribbean, and six States from the Asia Pacific Region. The specific sections of the Regional Report provide the detailed list of Contracting States that participated in the Study.

APPENDIX

Appendix I – Regional Report

PART II: REGIONAL REPORT

A. BRUSSELS II A REGULATION

1. Introduction

1. This Study focuses on the impact of the Brussels II a Regulation² ('the Regulation') on return and access applications made under the 1980 Child Abduction Convention ('the Convention'). The Regulation is a regional instrument which is binding on all Member States of the European Union,³ except Denmark ('Brussels II a States'). Subject to what is said below, it takes precedence, as between *Brussels II a States*, over the Convention. Although the Regulation has now, that is, from 1 August 2022, been superseded by Brussels II b,⁴ it remained the operative instrument for all applications made in 2021 and is therefore the exclusive concern of this Study.

2. The Study primarily considers return applications made under the Convention that were received by Brussels II a States and compares the outcomes in applications from fellow Brussels II a States which were therefore governed by the Regulation ('Regulation cases') with those received from non-Brussels II a States which were not therefore governed by the Regulation ('non-Regulation cases'). It compares these findings with those of the 2015 Study. In order to make a direct comparison, the 2015 figures exclude applications from or to the UK, to take into account that as from 1 January 2020, the UK had withdrawn from the EU and was no longer a Member State.

3. The Study concludes with a brief analysis of access applications made under the Convention.

2. Executive Summary

4. In 2021, the Regulation applied to 479 of the 2,180 return applications made globally (22%). This Study considers applications received by Brussels II a States and compares the outcomes in applications from fellow Brussels II a States ('Regulation cases') and those received from non-Brussels II a States ('non-Regulation cases').

5. In 2021, there was a marginally higher return rate in Regulation cases (43% compared with 40% in non-Regulation cases) which reflects the findings of the of 2015 Study. However, the Regulation had a minimal impact on court decisions with 55% of Regulation cases decided in court ending in an order for the return of the child compared with 54% for non-Regulation cases. In 2015 the findings were 59% and 48%, respectively.

6. In 2021, the same proportion of Regulation and non-Regulation cases ended in a judicial order refusing return (18%). The Regulation did not have a significant impact on the reasons for refusal cited in these cases though Article 13(1)(b) grave risk exception and the child's objections were cited marginally more frequently in Regulation cases than in non-Regulation cases.

7. Proportionally fewer court decisions in Regulation cases were appealed compared with non-Regulation cases. In 2021, 57% of Regulation cases were appealed (109 of the 190 which went to court and where information on appeals was known) compared with 72% of non-Regulation cases (97 out of 134 applications). This is in contrast to the 2015 Study which found that the Regulation did not make a significant difference in how Brussels II a States treat applications with regard to appeals (45% of Regulation cases were appealed compared with 43% of non-Regulation cases).

² Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000.

³ Austria, Belgium, Bulgaria, Cyprus, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. All these States are also Contracting States to the 1980 Child Abduction Convention.

⁴ Council Regulation (EU) 2019 /1111 of 25 June 2019, on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility (recast).

8. On average, it appears that the Regulation had comparatively little impact on the time taken to conclude applications overall. For Regulation cases it took an average of 192 days to resolve an application from its receipt by the Central Authority, for non-Regulation cases this was 191 days.

9. 10% of Regulation cases were resolved in six weeks and 38% in 18 weeks. In non-Regulation cases, 7% were resolved in six weeks and 37% in 18 weeks.

10. Brussels II a States received 137 access applications in 2021, amounting to 34% of the 399 access applications received globally and 14% of all the applications received by Brussels II a States under the Convention. Globally, 15% of applications made under the Convention were for access.

11. Of the 137 access applications, 62 came from fellow Brussels II a States (45%) and 75 from non-Brussels II a States.

12. 19% of access applications resulted in a voluntary agreement or a judicial order for access/contact, which is less than the 27% recorded globally.

3. The Regulation

13. So far as international child abduction is concerned, the basic scheme of the Regulation is:

- a. to preserve the pre-eminence of the Convention for dealing with applications for the return of abducted children but nevertheless to give some direction on how that Convention should be applied as between Member States subject to the crucial reservation that in all cases to which the Regulation applies courts must first determine whether a “wrongful removal or retention” has taken place in the sense of the Regulation which means applying Article 2(11) of the Regulation rather than Article 3 of the Convention; and,
- b. to govern the position in cases where a court refuses to make a return order under the Convention (which is governed by Art. 11(6)-(8)).

14. For the purpose of this Report the crucial provisions are Article 11(1)-(5). Article 11(1) enjoins the authorities of Member States when dealing with applications for the return of a child “wrongfully removed in a Member State other than the Member State where the child was habitually resident immediately before the wrongful removal or retention” to apply paragraphs 2-8. Paragraphs 2 to 5 comprise directions on how return applications should be handled under the Convention. They provide as follows:

“2. When applying Articles 12 and 13 of the 1980 Hague Convention, it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity.

3. A court to which an application for return of a child is made [...] shall act expeditiously in proceedings on the application, using the most expeditious procedures available in national law.

Without prejudice to the first subparagraph, the court shall, except where exceptional circumstances make this impossible, issue its judgment no later than six weeks after the application is lodged.

4. A court cannot refuse to return a child on the basis of Article 13b of the 1980 Hague Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

5. A court cannot refuse to return a child unless the person who requested the return of the child has been given an opportunity to be heard.”

15. Article 11(6)-(8) deals with the position following an order for non-return based on a ground under Article 13 of the Convention. Under these provisions (sometimes referred to as ‘the override provisions’), following a refusal to order the child’s return, the parties have the right to bring custody proceedings concerning the child before a court of the Member State of the child’s habitual residence before the abduction. Where such proceedings are brought, the court can, after full consideration of the case, order the child’s return thereby overriding the original decision not to do so.

16. As this Statistical Study was confined to the operation of the Convention, decisions under Article 11(6)-(8) of the Regulation following a judicial refusal to return, fell outside its scope. Consequently, judicial refusals under Article 13 of the Convention are recorded as a ‘refusal’, even if, pursuant to Article 11(8) of the Regulation, the final outcome was a return.

17. The following analysis compares the outcomes and timing of return applications to which the Regulation applied (‘Regulation cases’, that is, where the application was between two Brussels II a States) and to those where it did not (‘non-Regulation cases’ that is, in this case, applications received by Brussels II a States that came from States not governed by the Regulation). It compares these findings with those of the 2015 Study. One object of this analysis is to see whether there is any evidence that return applications under the 1980 Child Abduction Convention were treated differently according to whether or not the Regulation applied.

4. The impact of the Regulation on applications for return under the 1980 Convention

a. The proportion of return applications to which the Regulation applied

18. In 2021, out of a global total of 2,180 return applications, 861 were received by Brussels II a States (39%). 479 of these were made between Brussels II a States. This means that the Regulation applied to 22% of all applications globally in 2021 and 56% of applications received by Brussels II a States. Making a direct comparison with the 2015 findings, that is, by excluding applications received by the UK, there were 869 applications received by Brussels II a States and 516 of these were from other Brussels II a States, which amounted to 23% of all applications globally in 2015 and to 59% of applications received by what would now be Brussels II a States.⁵

19. The proportion of applications received from fellow Brussels II a States varied considerably. Annex 1 shows the proportion of applications received by these States that came from other Brussels II a States.

5. Outcomes

a. Overall outcomes

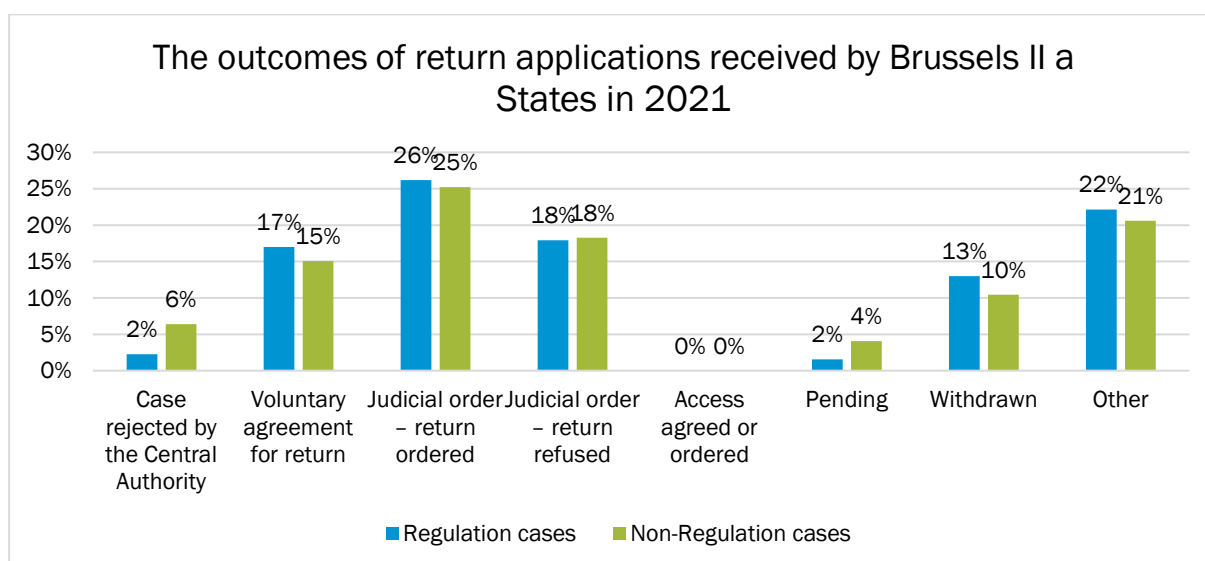
20. Information on the outcome was known in 792 of the 861 applications made to Brussels II a States. The table below compares the differences in the outcome when the Regulation applied as against when it did not.

⁵ Including the UK, in 2015, 1161 return applications were received by Brussels II a States, 830 of which were by were made between Brussels II a States, which meant that the Regulation applied to 38% of all applications and to 71% of applications received by Brussels II a States.

The outcomes of return applications received by Brussels II a States in 2021

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Case rejected by the Central Authority	10	2%	22	6%
Voluntary agreement for return	76	17%	52	15%
Judicial order – return ordered	117	26%	87	25%
Judicial order – return refused	80	18%	63	18%
Access agreed or ordered	0	0%	0	0%
Pending	7	2%	14	4%
Withdrawn	58	13%	36	10%
Other	99	22%	71	21%
Total	447	100%	345	100%

21. As can be seen in the table above and the graph below, there was a higher return rate in Regulation cases in 2021 (43% compared with 40% in non-Regulation cases) but also a higher withdrawal rate (13% compared with 10%). The global return rate was 39% and the withdrawal rate was 10%.



22. In 2015 the return rate for Regulation cases was 44% compared with 36% in non-Regulation cases. The table below shows the outcomes of applications in both Studies.

The outcomes of return applications received by Brussels II a States in 2015 and 2021

	2015 Regulation cases	2015 non- Regulation cases	2021 Regulation cases	2021 non- Regulation cases
Case rejected by the Central Authority	2%	4%	2%	6%
Voluntary agreement for return	21%	17%	17%	15%
Judicial order – return ordered	23%	20%	26%	25%
Judicial order – return refused	13%	19%	18%	18%
Access agreed or ordered	2%	2%	0%	0%
Pending	7%	5%	2%	4%
Withdrawn	18%	17%	13%	10%
Other	16%	17%	22%	21%
Total	100%	100%	100%	100%

a. *The return applications decided in court*

23. In 2021, the Regulation did not have an impact on the proportion of return applications decided in court. 49% of both Regulation and non-Regulation cases reached final decisions this way.⁶ Globally, 38% of return applications were decided in court.

24. In 2015, excluding the UK, 34% of both Regulation and non-Regulation cases were decided in court as against the global rate of 43%.

25. Compared with non-Regulation cases, Regulation cases had similar outcomes in Court. For Regulation cases 55% of those which went to court ended in an order for return, 38% in an order refusing return and 7% in other outcomes in 2021, compared with 54%, 39% and 6%, respectively, for non-Regulation cases.

26. In 2015 59% of court decisions in Regulation cases ended in a return order and 32% in a refusal. For non-Regulation cases the proportions were 48% and 47%, respectively.⁷

b. *Judicial refusals and reasons for refusal*

In 2021, the same proportion of Regulation and non-Regulation cases ended in a judicial order refusing return (18%). In 2015 it was found that proportionally fewer Regulation cases were refused by the courts compared with non-Regulation cases: 13% compared with 19%.

27. The Regulation also addresses the reasons for refusal in 1980 Convention return applications. Article 11(4) of the Regulation states that a court cannot refuse the return of a child on the basis of Article 13(1)(b) of the Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return.

28. The table and graph below show the reasons for refusals in return applications received by Brussels II a States in Regulation cases in 2021.

⁶ Information was available for 436 Regulation cases and 325 non-Regulation cases.

⁷ In 2008 Regulation cases ended in proportionally more judicial orders for return (60% compared with 48%). This is not a direct comparison as it includes applications received by the United Kingdom.

The sole reasons for refusal and the Regulation in 2021

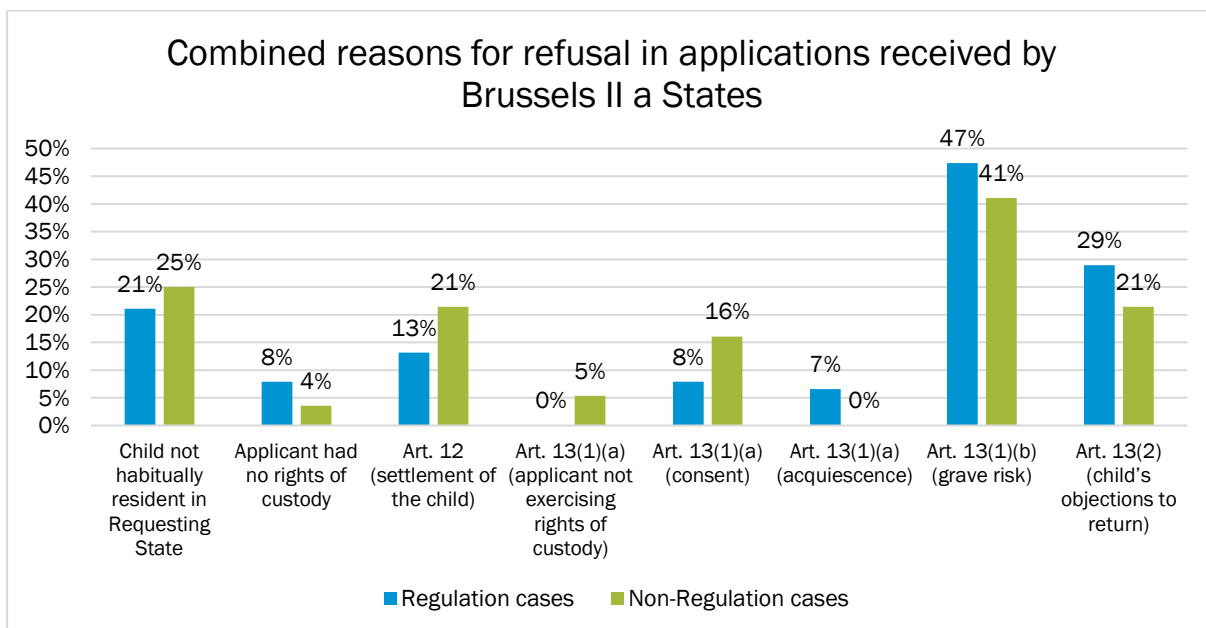
	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	11	14%	6	11%
Applicant had no rights of custody	3	4%	2	4%
Art. 12 (settlement of the child)	6	8%	7	13%
Art. 13(1)(a) (applicant not exercising rights of custody)	0	0%	0	0%
Art. 13(1)(a) (consent)	4	5%	6	11%
Art. 13(1)(a) (acquiescence)	5	7%	0	0%
Art. 13(1)(b) (grave risk)	23	30%	16	29%
Art. 13(2) (child's objections to return)	9	12%	8	14%
Art. 20 (human rights)	0	0%		0%
More than one reason	15	20%	11	20%
Number of applications	76	100%	56	100%

29. Looking only at the sole reasons for refusal, in Regulation cases proportionally more applications were refused based on the child not being habitually resident in the Requesting State and Article 13(1)(a) acquiescence. The finding that 20% of refusals were based on more than one reason is interesting, given that by Article 29 (1) of Brussels II (b) Regulation, the 'override' provisions are triggered by refusals 'solely' based on Article. 13 (1)(b) or Article 13 (2).

30. Given Article 11(4) of the Regulation, it is perhaps surprising that approximately the same proportion of applications were refused based solely on Article 13(1) b) whether or not the Regulation applied. This was also the case in 2015. In fact, when multiple reasons for refusal are taken into account Article 13(1)(b) was relied upon in proportionally more cases where the Regulation applied than where it did not (see below).

The combined reasons for refusal (sole and multiple reasons) and the Regulation in 2021

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	16	21%	14	25%
Applicant had no rights of custody	6	8%	2	4%
Art. 12 (settlement of the child)	10	13%	12	21%
Art. 13(1)(a) (applicant not exercising rights of custody)	0	0%	3	5%
Art. 13(1)(a) (consent)	6	8%	9	16%
Art. 13(1)(a) (acquiescence)	5	7%	0	0%
Art. 13(1)(b) (grave risk)	36	47%	23	41%
Art. 13(2) (child's objections to return)	22	29%	12	21%
Art. 20 (human rights)	0	0%	0	0%
Number of reasons	101	133%	75	134%
Number of applications	76		56	



31. In 2021, in Regulation cases the Article 13(1)(b) grave risk exception was cited more frequently than in non-Regulation cases (47% as against 41% in non-Regulation cases). The table below shows that the opposite was true in 2015 (23% as against 30%). The child's objections were also cited more frequently in 2021 in Regulation cases (29% as against 21% in non-Regulation cases), the same was true in 2015 (12% as against 9%).

The combined reasons for refusal (sole and multiple reasons) and the Regulation in 2015 and 2021

	Regulation cases		Non-Regulation cases	
	Frequency	Percentage	Frequency	Percentage
Child not habitually resident in Requesting State	16	21%	14	25%
Applicant had no rights of custody	6	8%	2	4%
Art. 12 (settlement of the child)	10	13%	12	21%
Art. 13(1)(a) (applicant not exercising rights of custody)	0	0%	3	5%
Art. 13(1)(a) (consent)	6	8%	9	16%
Art. 13(1)(a) (acquiescence)	5	7%	0	0%
Art. 13(1)(b) (grave risk)	36	47%	23	41%
Art. 13(2) (child's objections to return)	22	29%	12	21%
Art. 20 (human rights)	0	0%	0	0%
Number of reasons	101	133%	75	134%
Number of applications	76		56	

6. Appeals

32. Proportionally fewer court decisions in Regulation cases were appealed compared to non-Regulation cases. In 2021, 57% of Regulation cases were appealed (109 of the 190 which went to court and where information on appeals was known) compared with 72% of non-Regulation cases (97 out of 134 applications).

33. In 2015, 45% of Regulation cases were appealed (90 of the 199 which went to court and where information on appeals was known) compared with 43% of non-Regulation cases (57 out of 132 applications).

a. Outcomes on appeal

34. Of the 206 appealed applications, 113 ended in a return (55%), 76 in a refusal (37%). In the remaining 8% the cases were either pending a final decision or ended in some other outcome including an agreement for access or the case being withdrawn by the appellant.

35. In Regulation cases the proportion of appeals ending in a return was 57% (62 out of 109) and in non-Regulation cases 53% (51 out of 97).

36. In Regulation cases that were appealed, 78% confirmed the first instance decision compared with 86% of non-Regulation cases. Globally, in 81% of appealed applications the first instance decision was confirmed.

b. Multiple appeals

37. The majority of return applications decided on appeal were appealed only once (200 out of 206). However, 4 applications were appealed twice and a further 2 applications reached three levels of appeal.

38. The Regulation did not appear to have any impact on the number of times a case was appealed. Of the four applications that were appealed twice, two were Regulation cases and two were non-Regulation cases. Of the two applications that were appealed three times, one was a Regulation case and one a non-Regulation case.

39. In 2015, 17 applications were appealed twice and 2 applications reached three levels of appeal. Of these 6 were Regulation cases (including the two that were appealed three times) and 11 were non-Regulation cases.

7. Timing

a. Overall timing from the date the return application was received by the Central Authority to the date of the final outcome

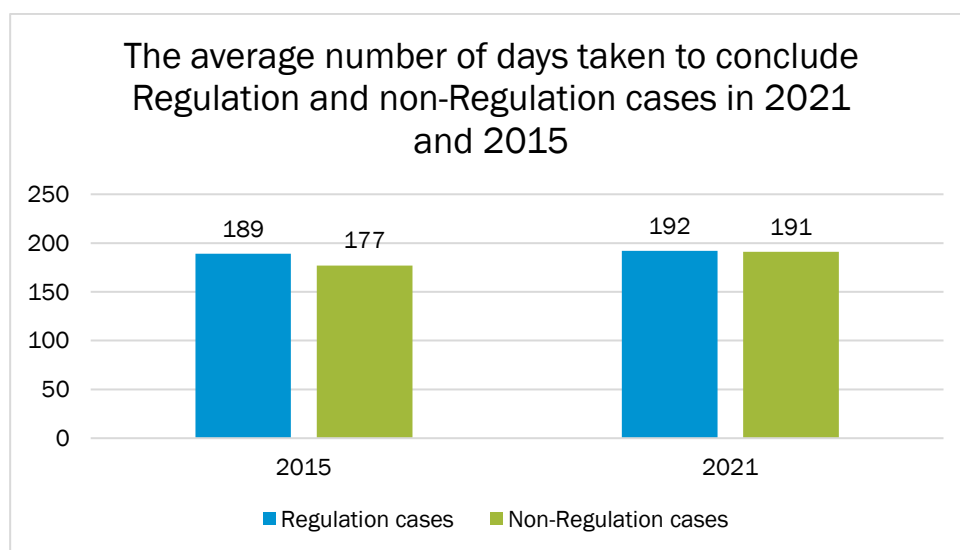
40. The time taken to dispose of applications is key to the success of the Convention. The basic premise of the Convention is that return applications should be dealt with “promptly”. The accepted yardstick of promptness is six weeks but there is uncertainty as to what this period is meant to refer. Article 11(2) of the Convention gives the applicant or Central Authority the right to request the reasons for the delay if the judicial or administrative authority of the requested State has not reached a decision within six weeks from the date of the commencement of the proceedings.

41. The table below shows the average time taken to resolve Regulation and non-Regulation cases. The times are recorded from the date the Central Authority received the application until the date the application was concluded, including those which were decided on appeal.

The average number of days taken to reach a final outcome in applications received by Brussels II a States

	Regulation cases	Non-Regulation cases
Mean	192	191
Minimum	2	6
Maximum	174	610
Number of cases	304	226

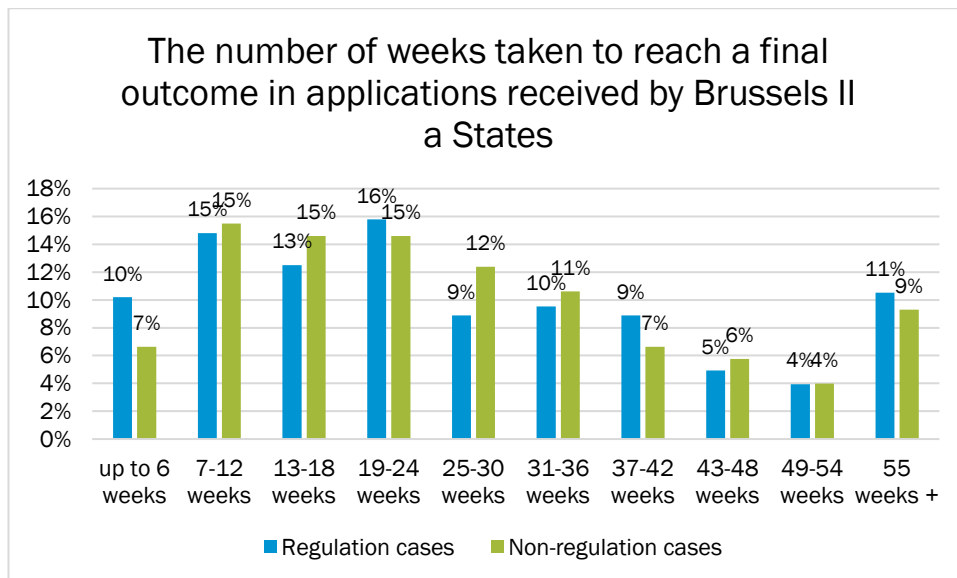
42. On average, it does not appear that the Regulation had much impact on the time taken to reach a final outcome in applications overall. The graph below shows how this compares with the 2015 Study.



43. 10% of Regulation cases were resolved in six weeks and 38% in 18 weeks in 2021.⁸ This can be compared with the 2015 figures of 10% and 42%, respectively.

44. In non-Regulation cases, 7% were resolved in six weeks and 37% in 18 weeks, compared with 11% and 46% in 2015. The table below shows these timings for 2021 in more detail.

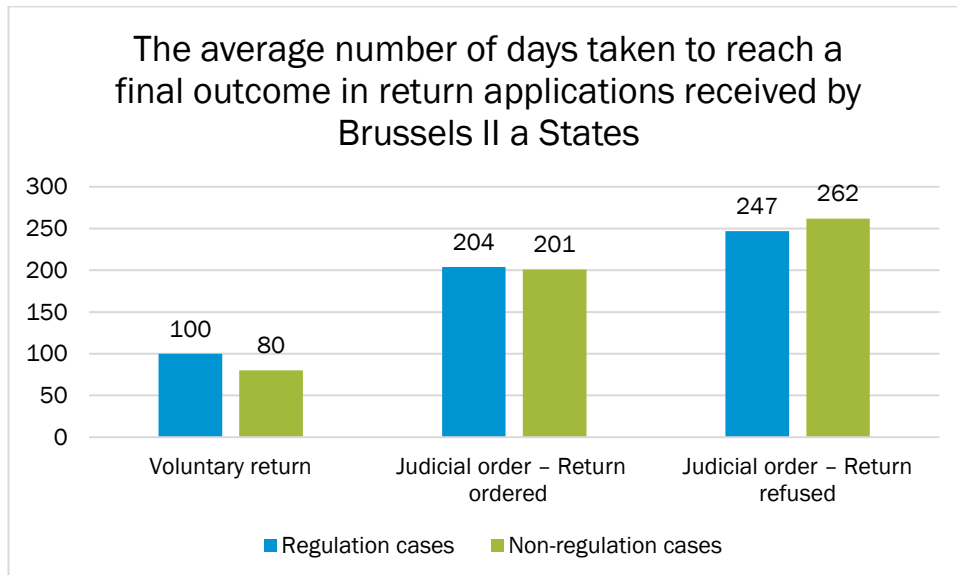
⁸ Based on 304 applications, 31 of which were resolved in six weeks and 114 in 18 weeks.



45. Annex 2 shows the number of applications received by each Central Authority that reached a final decision within 6 weeks.

b. Timing and outcomes

46. The graph below looks at the average time taken to reach certain final outcomes, from the date the return application was received by the Central Authority. The Regulation does not appear to have a huge impact on the time taken to reach a final outcome for judicial orders, though voluntary returns were concluded more slowly and judicial orders for refusal more quickly, compared with non-Regulation cases.



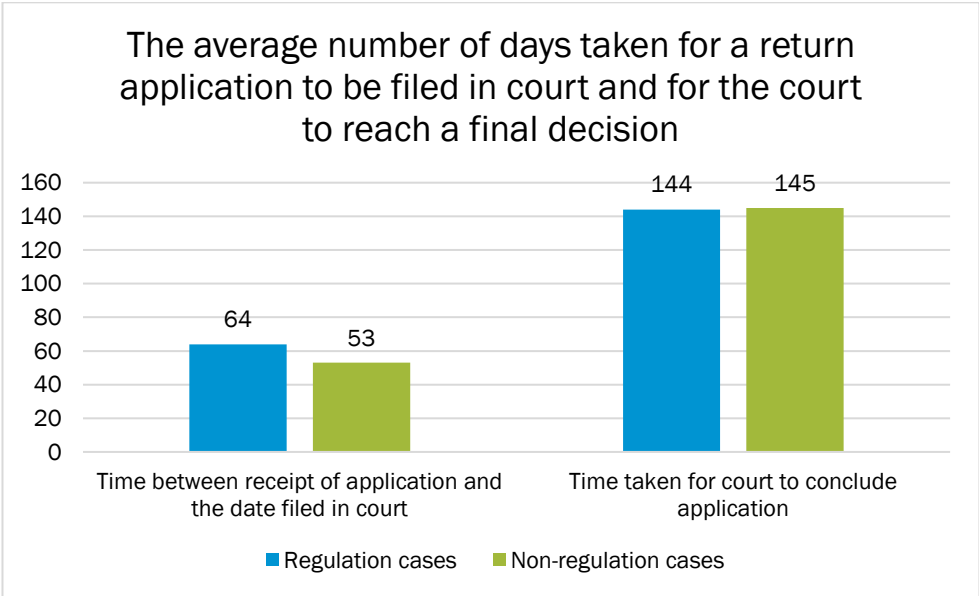
c. The time taken to send applications to court and the time taken for the court to reach a final outcome

47. Article 11(3) of the Regulation states that, in applying Articles 12 and 13 of the 1980 Convention, the courts must use the most expeditious procedures available in national law and that, barring exceptional circumstances, issue judgment within six weeks. Although it is arguable that this provision also applies to decisions reached on appeal, Article 11(3) is generally taken to apply to first instance court proceedings.

48. The timing of the applications can be broken down into two periods: the time taken for the Central Authority to send the application to court and, subsequently, the time taken for the court to reach its decision. Annex 3 shows the average time taken for each of these periods in applications received by Brussels II a States.

49. As can be seen in the graph below, in Regulation cases, in 2021 it took an average of 64 days to send the application to court, compared with 53 days in non-Regulation cases, and then a further 144 days for the court to reach a final decision, as against the 145 days in non-Regulation cases.⁹

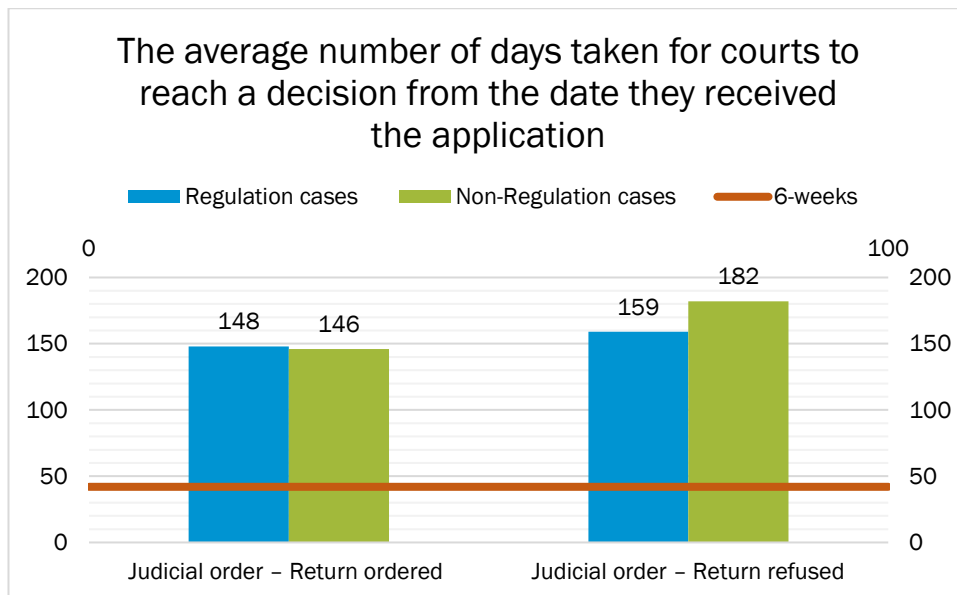
50. In 2015, Regulation cases took marginally longer before they were filed in court (85 days compared with 67 days), and before reaching a final conclusion from the date of receipt by the court (134 days compared with 129 days).



51. The graph below looks at the time taken for the courts to reach a final decision in applications ending in judicial orders for return or judicial orders refusing return, including any appeals. Judicial orders for return took an average of 148 days, compared with 146 days for non-Regulation cases and judicial orders refusing return took 159 days compared with 182 days.¹⁰

⁹ Not all Central Authorities recorded the date at which the application was sent to court but information was available for 220 Regulation cases and the court time for 211 applications. The figures for non-Regulation cases was based on 152 applications in which the date the application was sent to court was recorded and 145 applications where the court time was known.

¹⁰ Based on 159 Regulation cases (100 ending in a judicial return and 59 ending in a judicial refusal) and 104 non-Regulation cases (65 ending in a judicial return and 39 ending in a judicial refusal).

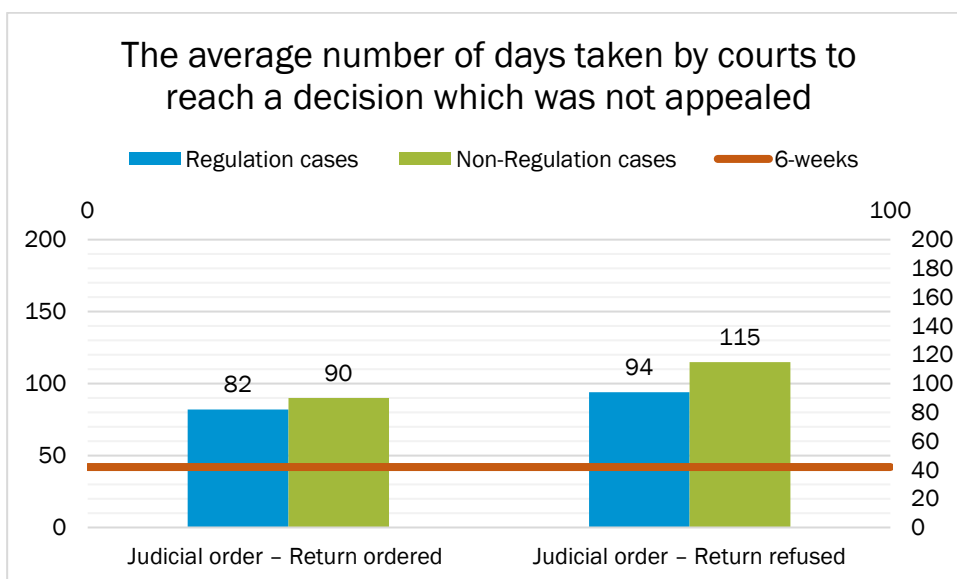


52. Only 11% of court decisions took less than six weeks to reach a final decision from the date the application was filed in court.¹¹ This figure was 8% in non-Regulation cases.¹² In 2015 these figures were 23% for Regulation cases and 15% for non-Regulation cases.

d. Timing and appeals

53. The graph below shows the average time taken by the court to reach a final outcome for applications ending in judicial orders for return or refusal to return which were not appealed.¹³ As would be expected, it shows that applications took less time to conclude compared with the overall average time to reach a final decision, including appeals.

54. As the graph below shows, Regulation cases were resolved more quickly, than non-Regulation cases. The same was true in 2015 with return applications which were not appealed taking 132 days where the Regulation applied and 151 days where it did not. For orders refusing return the average was 185 days in Regulation cases and 199 days in non-Regulation cases.

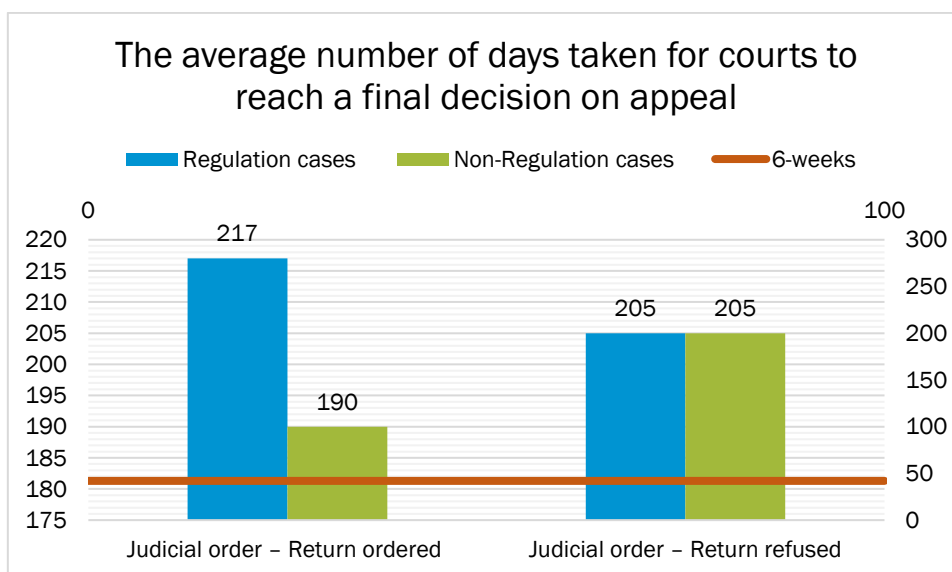


¹¹ 18 out of 163 court decisions in which information on the date sent to court and the final decision were available.

¹² 8 out of 106 court decisions in which information on the date sent to court and the final decision were available.

¹³ Based on 150 Regulation cases (96 ending in a judicial return and 54 in a judicial refusal) and 96 non-Regulation cases (57 ending in a judicial return and 39 in a judicial refusal).

55. The graph below looks at applications that were decided on appeal.¹⁴ For applications ending in a judicial order for return, Regulation cases took much longer to concluded on average than non-Regulation cases. The same was true in the 2015 Study where, for Regulation cases decided on appeal, orders for return took an average of 255 days to conclude and 309 days for an order refusing return, compared with 199 and 223 days, respectively, for non-Regulation cases.



56. The time taken to reach a final decision also depended on the number of times the application was appealed. Applications that were appealed only once took an average of 200 days to conclude from the date they were received by the court and the four applications that were appealed twice took an average of 220 days. No information was available on the time taken in the two applications that reached three levels of appeal.¹⁵

8. Access applications

57. As shown in Annex 4, 137 access applications were received by 24 Brussels II a States. This was 34% of the 399 access applications received globally. Of the 137 access applications, 62 came from fellow Brussels II a States (45%), compared with 49 out of 107 applications in 2015 (46%).

58. Looking at all 1980 Convention applications made between Brussels II a States, 11% were for access, compared with 16% of applications received by Brussels II a States from non- Brussels II a States. Globally, 15% of applications made under the Convention were for access.

59. The finding that between Brussels II a States 11% of all applications under the Convention are for access (albeit that is less than the proportional rate of such applications received from non-Brussels II a States) is interesting as recognition and enforcement of access orders is on the face of it exclusively governed by the Regulation (see Article 60(e))It might be arguable that the Regulation does not exclude applications being made under the 1980 Child Abduction Convention, to Central Authorities, at any rate, where, in the absence of a court order, application is made under Article 21 for arrangements to be made for organising or securing the effective exercise of rights of access. However, in the absence of data being specifically sought on this issue, it cannot be said whether all the access applications recorded in this Study fell into this category.

(a) Outcomes

60. Information on the outcome was known in 116 of the 137 access applications received by Brussels II a States. Overall, in 22 access applications access was either agreed or ordered, which

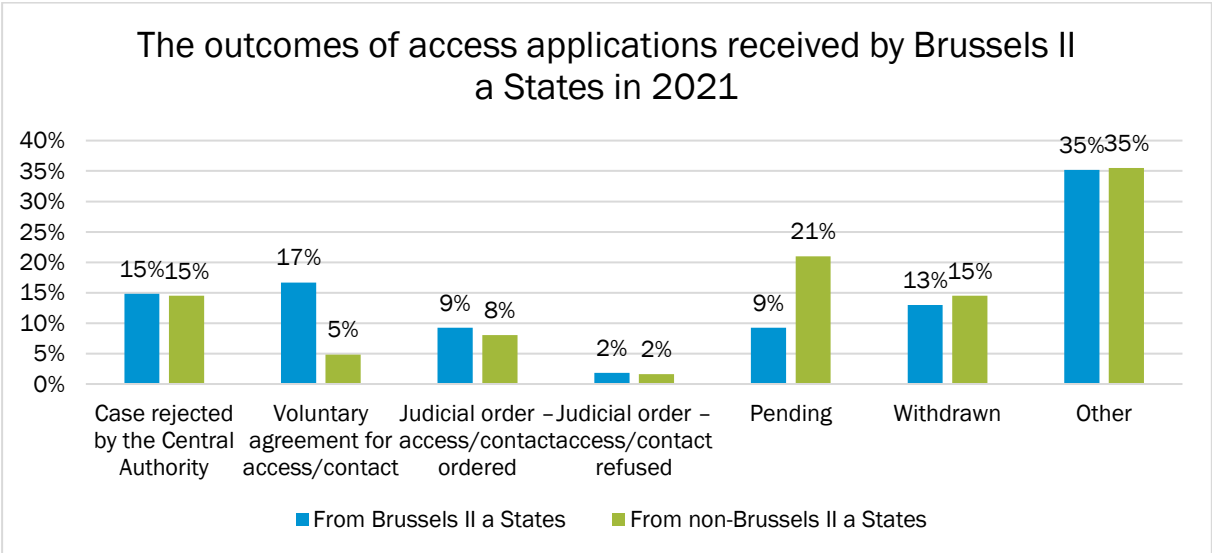
¹⁴ Based on 84 Regulation cases (53 ending in a judicial return and 31 in a judicial refusal) and 68 non-Regulation cases (41 ending in a judicial return and 27 in a judicial refusal).

¹⁵ Based on 156 applications that were appealed once and 4 that were appealed twice.

amounts to 19% of all the applications in which the outcome was known. This compares with a global average of 27%. The table and graph below compare the differences in outcome for applications received from fellow Brussels II States with those received from non- Brussels II States.

Outcomes of access applications received by Brussels II a States

	Received from Brussels II a States		Received from non-Brussels II a States		Total	
Case rejected by the Central Authority	8	15%	9	15%	17	15%
Voluntary agreement for access/contact	9	17%	3	5%	12	10%
Judicial order – access/contact ordered	5	9%	5	8%	10	9%
Judicial order – access/contact refused	1	2%	1	2%	2	2%
Pending	5	9%	13	21%	18	16%
Withdrawn	7	13%	9	15%	16	14%
Other	19	35%	22	35%	41	35%
Total	54	1	62	1	116	1



(b) Timing

61. The average time taken to conclude an access application from a fellow Brussels II a State was 247 days, compared with 234 days for applications from non-Brussels II a States. Though it should be noted that information on the time taken to conclude applications was available in only 11 cases (7 from Brussels II a States and 4 from non-Brussels II a States)

Annex 1: Return applications received by Brussels II a States

State	Regulation cases		Non-Regulation cases		Total
	Number	Percentage	Number	Percentage	
Austria	25	93%	2	7%	27
Belgium	20	71%	8	29%	28
Bulgaria	15	60%	10	40%	25
Croatia	3	50%	3	50%	6
Cyprus	3	60%	2	40%	5
Czech Republic	8	57%	6	43%	14
Estonia	5	71%	2	29%	7
Finland	6	86%	1	14%	7
France	66	52%	61	48%	127
Germany	70	60%	47	40%	117
Greece	6	50%	6	50%	12
Hungary	13	72%	5	28%	18
Ireland	10	37%	17	63%	27
Italy	35	54%	30	46%	65
Latvia	1	9%	10	91%	11
Lithuania	6	38%	10	63%	16
Luxembourg	4	80%	1	20%	5
Malta	2	67%	1	33%	3
Netherlands	13	72%	5	28%	18
Poland	60	52%	56	48%	116
Portugal	16	46%	19	54%	35
Romania	42	79%	11	21%	53
Slovakia	12	63%	7	37%	19
Slovenia	3	43%	4	57%	7
Spain	25	35%	47	65%	72
Sweden	10	48%	11	52%	21
Total	479	56%	382	44%	861

Annex 2: Proportion of return applications resolved within 6 weeks of receipt by the Central Authority

State	6 weeks or fewer		7 - 18 weeks		Over 18 weeks		Total
	No.	%	No.	%	No.	%	
Austria	7	35%	7	35%	6	30%	20
Belgium	5	19%	7	27%	14	54%	26
Bulgaria	4	17%	3	13%	17	71%	24
Croatia					5	100%	5
Cyprus					3	100%	3
Czech Republic	4	33%	4	33%	4	33%	12
Estonia							
Finland	1	20%	2	40%	2	40%	5
France	4	8%	8	17%	36	75%	48
Germany	8	7%	45	40%	59	53%	112
Greece							
Hungary					7	100%	7
Ireland			9	56%	7	44%	16
Italy	4	7%	23	43%	27	50%	54
Latvia		0%	6	67%	3	33%	9
Lithuania	2	13%	4	25%	10	63%	16
Luxembourg			1	50%	1	50%	2
Malta							
Netherlands					8	100%	8
Poland	1	1%	20	22%	69	77%	90
Portugal							
Romania	3	8%	5	13%	31	79%	39
Slovakia			2	33%	4	67%	6
Slovenia			2	50%	2	50%	4
Spain	3	13%	3	13%	18	75%	24
Sweden							
Total	46	9%	151	28%	333	63%	530

Annex 3: Number of days taken for the Central Authority to send return applications to court and the time the court then took to finalise the application

State	Average time taken to send to court		Average time taken from receipt by the court to final decision	
	Regulation cases	Non-Regulation cases	Regulation cases	Non-Regulation cases
Austria	4	4	88	231
Belgium	77	87	100	139
Bulgaria	89	95	256	385
Croatia	97	56	89	124
Cyprus	178		200	
Czech Republic	38	31	74	103
Estonia				
Finland	72		81	
France	89	90	123	152
Germany	83	52	95	101
Greece				
Hungary	169	145	141	176
Ireland	49	31	80	90
Italy	85	47	104	113
Latvia	21	33	65	84
Lithuania	61	166	78	85
Luxembourg	55	112	28	139
Malta				
Netherlands	65	260	106	48
Poland	22	26	250	195
Portugal				
Romania	86	86	143	153
Slovakia	90		368	
Slovenia	84	40	41	66
Spain				
Sweden				
Overall average	64	53	144	145

Annex 4: Access applications received by Brussels II a States

State	Received from Brussels II a States		Received from non-Brussels II a States		Total
	Number	Percentage	Number	Percentage	
Austria	4	80%	1	20%	5
Belgium	2	40%	3	60%	5
Cyprus	1	100%	0	0%	1
Czech Republic	0	0%	2	100%	2
Estonia	1	50%	1	50%	2
Finland	1	100%	0	0%	1
France	9	33%	18	67%	27
Germany	10	38%	16	62%	26
Greece	1	100%	0	0%	1
Hungary	0	0%	1	100%	1
Ireland	0	0%	2	100%	2
Italy	3	60%	2	40%	5
Latvia	0	0%	2	100%	2
Lithuania	3	100%	0	0%	3
Luxembourg	1	100%	0	0%	1
Malta	1	100%	0	0%	1
Netherlands	2	50%	2	50%	4
Poland	6	67%	3	33%	9
Portugal	0	0%	7	100%	7
Romania	3	75%	1	25%	4
Slovakia	2	67%	1	33%	3
Slovenia	3	100%	0	0%	3
Spain	6	46%	7	54%	13
Sweden	3	33%	6	67%	9
Total	62	45%	75	55%	137

B. LATIN AMERICA AND THE CARIBBEAN ISLANDS

1. Introduction

62. The following report examines the application of the 1980 Child Abduction Convention within Latin American and Caribbean States ('LATAM States'). 25 LATAM States are Contracting States to the Convention. Of these, 18 responded to the 2021 questionnaire, namely, Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, and Venezuela.

63. Many, but by no means all, of the 25 LATAM States are also State Parties to the Inter-American Convention on the International Return of Children 1989,¹⁶ which, like the 1980 Child Abduction Convention, has as its purpose to 'secure the prompt return of children habitually resident in one State Party who have been wrongfully removed from any State to a State Party or who, having been lawfully removed, have been wrongfully retained' and to seek 'to secure enforcement of visitation and custody rights of parties entitled to them'.¹⁷

64. Where a State is a party to both the 1980 Child Abduction Convention and the Inter-American Convention, the latter is given priority by Art. 34 of the Inter-American Convention unless otherwise agreed between the States concerned. In fact, as this Report demonstrates, it is common practice among State Parties to the Inter-American Convention, to use the 1980 Child Abduction Convention between themselves (for details, see Annex 1). It is to be noted that unlike the position in EU Member States that are subject to the Brussels II a Regulation, or, now the Brussels II b Regulation,¹⁸ the 1980 and Inter-American Conventions operate independently of one another. Consequently, for LATAM States the 1980 Convention applies in exactly the same way regardless of whether the application is made by a fellow LATAM State even where both States are party to the Inter-American Convention, or by a non-LATAM State.

65. This Report is solely concerned with the operation of the 1980 Child Abduction Convention in this region. It provides no information about the operation of the Inter-American Convention.

2. Executive Summary

66. The 18 Latin American and Caribbean States ('LATAM States') that took part in the 2021 Study received a total of 421 return applications amounting to 19% of the 2,180 return applications received globally. Making a direct comparison with the 2015 Study there was 21% increase in the number of return applications. This finding contrasts with a 4% decline in return applications globally.

67. A significantly higher proportion of applications received by LATAM States remained pending at the cut-off date of 30 June 2023, 29% compared with 12% globally. The return rate was also lower at 30% compared with 39% globally.

68. In 2021, 12% of applications received by LATAM States ended in a judicial order refusing the return of the child, compared with 13% globally. The reasons for these refusals did not differ greatly from the global averages, though a slightly higher proportion of applications were refused based on Article 20, Article 13(1)(b), or the applicant not having or not exercising rights of custody.

69. Of the applications which went to court, 49% involved an appeal, compared with the global average of 42%.

¹⁶ OAS, TREATY SERIES, NO. 70, signed in Montevideo, Uruguay, in 1989. The Convention has been in force since 1994. There are currently 14 Contracting States to this Convention, namely, Antigua and Barbuda, Argentina, Belize, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, Mexico, Nicaragua, Paraguay, Peru, Uruguay, and Venezuela. Of these States, only Antigua and Barbuda is not also a Contracting State to the 1980 Child Abduction Convention. In contrast, of the Latin American mainland, only Chile is not a Contracting State to the Inter-American Convention.

¹⁷ By Article 1.

¹⁸ See Part A of this Regional Report.

70. Overall, applications received by LATAM States took 239 days to conclude from the receipt of the application by the Central Authority. This can be compared with the average of 207 days globally. However, it should be noted that an additional 116 applications received by LATAM States remained pending at the cut-off date of 30 June 2023.

71. The responding LATAM States received 68 access applications in 2021, amounting to 17% of the 399 access applications received globally. At 14% of all the applications received by LATAM States, the proportion of access to return applications is similar to the global finding of 15%.

72. 38% of access applications were either agreed or ordered which is proportionally more than the 27% globally.

3. Return applications

73. Eighteen LATAM States responded to the 2021 questionnaire,¹⁹ receiving a total of 421 return applications. This amounts to 19% of the 2,180 return applications received globally in 2021. In 2015, the Study analysed 330 return applications received by 16 States, which amounted to 15% of the global total of return applications made under the Convention, and 315 applications received by 15 States in 2008.²⁰

74. Comparing the data from the States that responded to both to 2021 and 2015 Studies²¹ there was a 21% increase in the number of return applications in 2021 as against a 4% decline globally. The most striking increase was those recorded by Costa Rica (34 return applications received in 2021 as against 9 in 2015), Honduras (14 return applications received in 2021 as against 2 in 2015) and Peru (29 return applications received in 2021 as against 13 in 2015). Overall, more LATAM States recorded increased numbers of return applications in 2021 than decreases. Paraguay received 24 return applications in 2021 as against 40 in 2015, Nicaragua received 9 return applications in 2021 as against 24 in 2015 and Uruguay received 3 return applications in 2021 as against 12 in 2015.

75. Of the applications received, 227 came from fellow Latin American States (66%, compared with 42% in 2015 and 19% in 2008). As said above (at. Para. 63), this Study does not include applications under the Inter-American Convention about the International Restitution of Minors (Return of Children) 1989. on the International Return of Children, so the total number of abductions within the region will be higher.

76. The proportion of applications received from fellow LATAM States varied considerably. Annex 1 shows the proportion of applications received by each State that came from other LATAM States.

4. Outcomes

a. Overall outcomes

77. Information on the outcome was known in 407 of the 421 applications made to LATAM States. The table and graph below compare the outcomes of applications received by LATAM States with the global averages.

¹⁹ Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, Venezuela.

²⁰ It should be noted that the comparison with the 2008 figures is not direct as some States did not respond to both Studies or were not parties to the Convention in 2008.

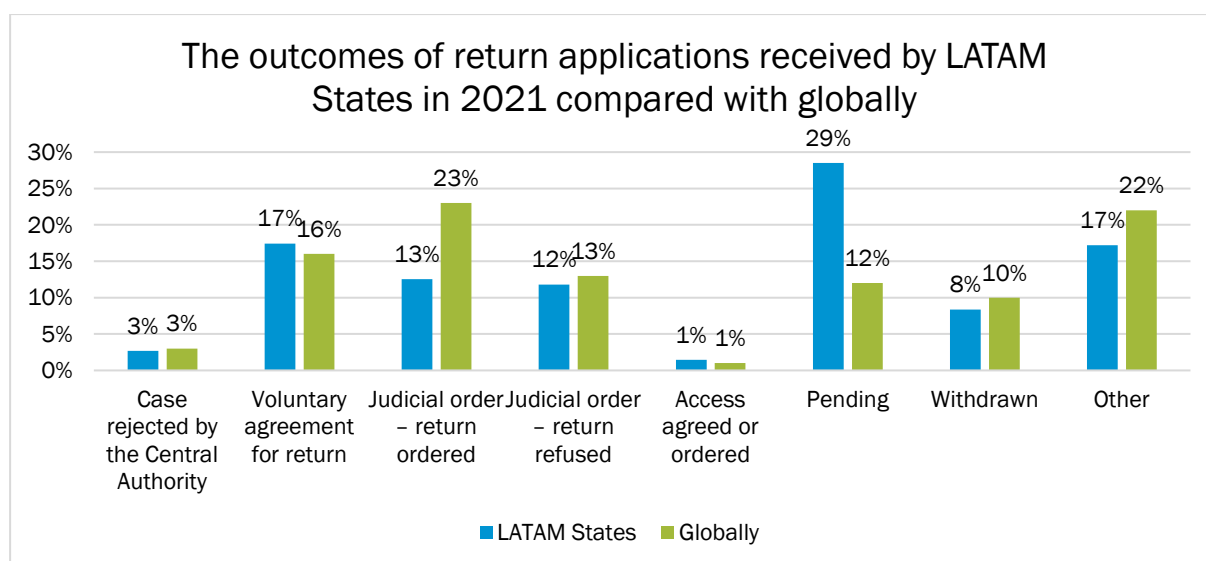
²¹ That is, excluding from the 2021 Study, the data from Ecuador, Guatemala, Jamaica and Trinidad and Tobago (this State did respond to both Studies but was not included in the 2015 analysis) and excluding from the 2015 Study the data from the Dominican Republic.

The outcomes of return applications received by LATAM States and globally in 2021

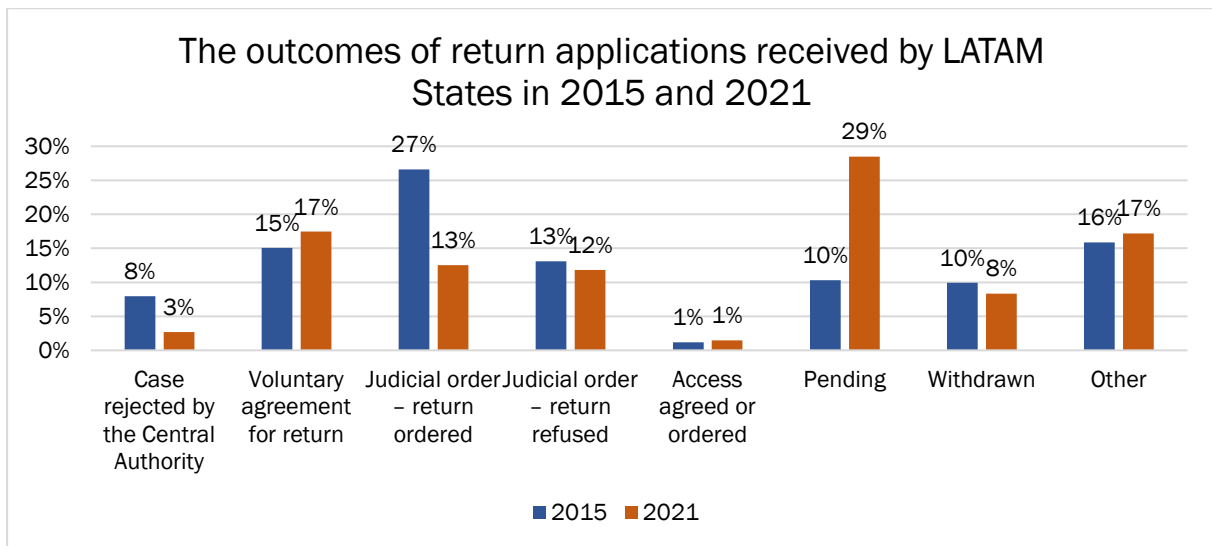
	Applications received by LATAM States		Global figures	
	Frequency	Percentage	Frequency	Percentage
Case rejected by the Central Authority	11	3%	71	3%
Voluntary agreement for return	71	17%	328	16%
Judicial order – return ordered	51	13%	479	23%
Judicial order – return refused	48	12%	281	13%
Access agreed or ordered	6	1%	12	1%
Pending	116	29%	242	12%
Withdrawn	34	8%	216	10%
Other	70	17%	466	22%
Total	407	100%	2,095	100%

78. As can be seen in the table above and the graph below, a significantly higher proportion of return applications received by LATAM States remained pending at the cut-off date of 30 June 2023, 29% compared with 12% globally.

79. The return rate in LATAM States was lower than globally, 30% compared with 39%. Similarly, in 2015, the overall return rate was lower than the global rate, and a significantly higher proportion of applications were pending.



80. The graph below compares the outcomes of applications received by LATAM States with those in 2015. There has been a decrease in the proportion of applications ending in a judicial order for return and a large increase in the proportion of pending cases.



b. Comparing applications from LATAM and non-LATAM States

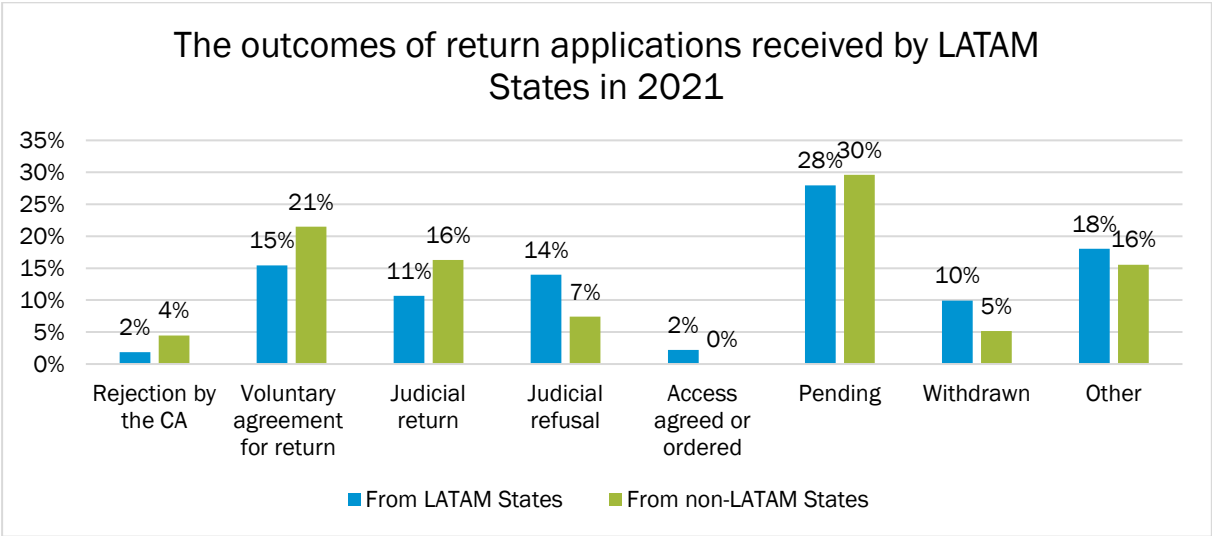
81. The table below compares the differences in the outcome when the applications came from fellow LATAM States against when they did not.

The outcomes of return applications received by LATAM States in 2021

	Applications received from LATAM States		Applications received from non-LATAM States	
	Frequency	Percentage	Frequency	Percentage
Case rejected by the Central Authority	5	2%	6	4%
Voluntary agreement for return	42	15%	29	21%
Judicial order - return ordered	29	11%	22	16%
Judicial order - return refused	38	14%	10	7%
Access agreed or ordered	6	2%	0	0%
Pending	76	28%	40	30%
Withdrawn	27	10%	7	5%
Other	49	18%	21	16%
Total	272	100%	135	100%

82. As can be seen in the table above, there was a lower return rate in applications that came from fellow LATAM States (26% compared with 38% in applications from non-LATAM States). This was also the case in 2015 and 2008: in 2015 the overall return rate was 30% in applications from fellow LATAM States and 51% in applications from non-LATAM States and the proportions were 42% and 46%, respectively, in 2008.

83. In cases received from fellow LATAM States there was also a higher proportion of judicial orders refusing the return of the child (14% compared with 7%). This was not the case in 2015 where the proportions were 12% and 14%, respectively.



c. The applications decided in court

84. In 2021, 108 applications received by LATAM States were decided in court (27%). 51 of these ended in an order for return (47%), 48 in a refusal to return (44%), and the remaining 8% in other outcomes, including 6 orders for access/contact. The proportion of return applications decided in court is lower than the global average of 38%. But the decline is less pronounced as against 2015. In LATAM States the proportion of cases going to court declined from 30% in 2015 to 27% in 2021, whereas globally the decline was from 43% in 2015 to 38% in 2021.

85. As mentioned above (see paras 75-76), a further 116 applications were pending. The status of these cases was not always known but at least 26 were pending a first instance or appeal decision before the courts.

86. This can be compared with the global averages of 38% of applications being decided in court, 59% ending in an order for return, 35% in a refusal and 5% for other reasons.

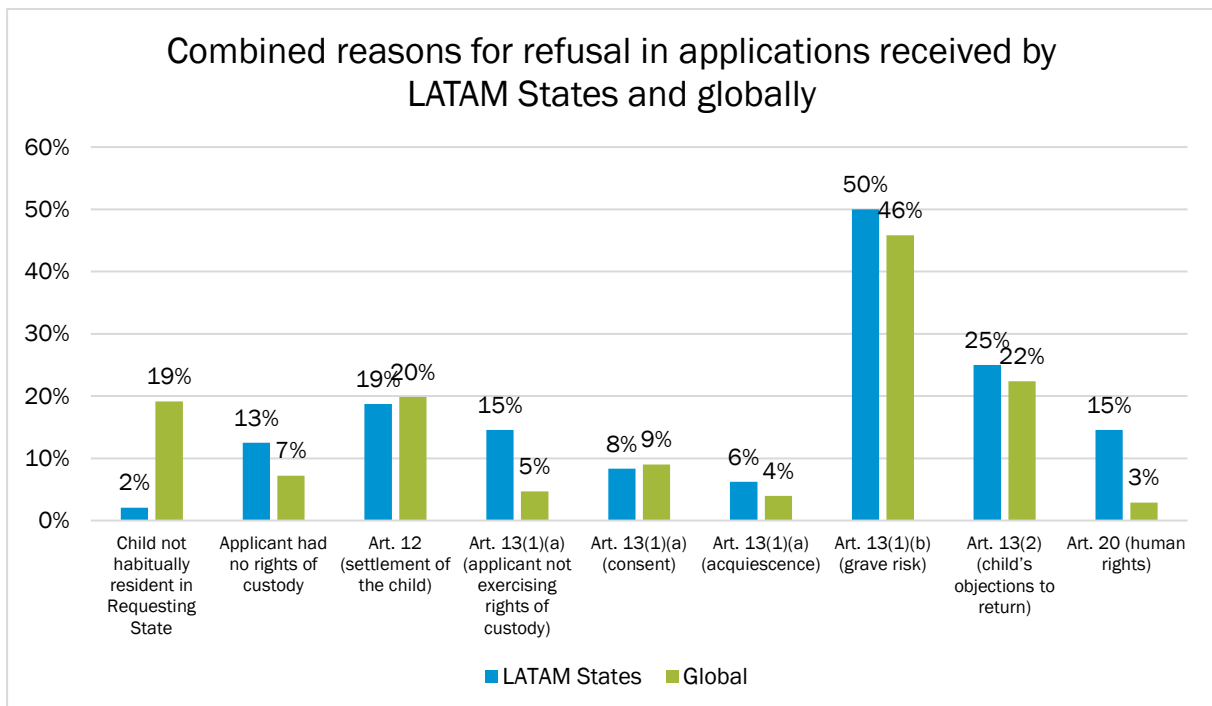
d. Judicial refusals and reasons for refusal

87. In 2021, 12% of applications received by LATAM States ended in a judicial order refusing the return of the child, compared with 13% globally (in 2015 13% of applications received by LATAM States ended in a judicial order refusing the return of the child, compared with 12% globally). The table below shows the reasons cited in these 48 cases.

**The combined reasons for refusal (sole and multiple reasons)
In applications received by LATAM States**

	Frequency	Percentage
Child not habitually resident in Requesting State	1	2%
Applicant had no rights of custody	6	13%
Art. 12 (settlement of the child)	9	19%
Art. 13(1)(a) (applicant not exercising rights of custody)	7	15%
Art. 13(1)(a) (consent)	4	8%
Art. 13(1)(a) (acquiescence)	3	6%
Art. 13(1)(b) (grave risk)	24	50%
Art. 13(2) (child's objections to return)	12	25%
Art. 20 (human rights)	7	15%
Number of reasons	73	152%
Number of applications	48	

88. The graph below shows that these figures are largely in line with those globally, though a slightly higher proportion of applications were refused based on Article 20, Article 13(1)(b), or the applicant not having or not exercising rights of custody and with more reliance being placed on Article 20.



5. Appeals

89. In 2021, at least 134 applications received by LATAM States went to court (108 decided in court and at least 26 pending a court decision). 66 of these applications were appealed (49%). This can be compared with 24% in 2015 and the 2021 global average of 42%.

a. Outcomes on appeal

90. Of the 66 appealed applications, 19 ended in a return (29%), 27 in a refusal (41%). In the remaining cases were either pending a final decision (23%) or ended in some other outcome including an agreement for access or the case being withdrawn by the appellant (8%).

91. Globally, 46% of appealed applications ended in a return, 39% in a refusal, 9% were pending and the remaining 7% ended in some other outcome including an order for access, a voluntary agreement for return or non-return, or the case being withdrawn by the appellant after the launching of the appeal.

92. Of the 48 applications where information on both the first and second instance decisions was known, 35 applications confirmed the first instance decision (73%) compared with 76% in 2015. The global average was 81%.

b. Multiple appeals

93. The majority of applications decided on appeal were appealed only once. However, 7 applications were appealed twice and a further 2 applications reached three levels of appeal (14%), compared with 11% globally. In 2015 51% were appealed twice and 10% reached three levels of appeal.

6. Timing

a. Overall timing from the date the application was received by the Central Authority to the date of the final outcome

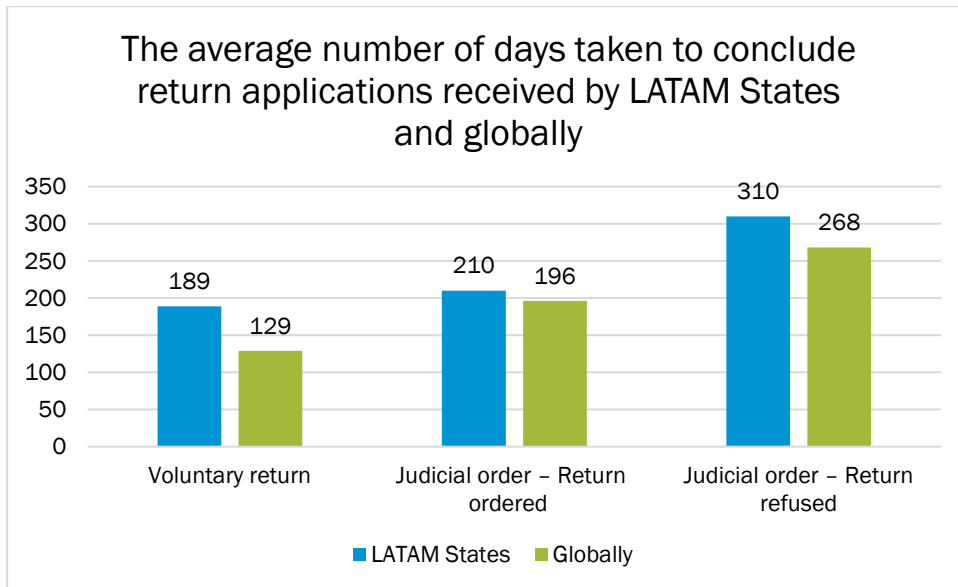
94. Overall, applications received by LATAM States took 239 days to conclude from the receipt of the application by the Central Authority.²² This can be compared with the average of 207 days globally. In 2015, applications received by LATAM States were resolved in an average of 217 days compared with the global average of 164 days.

95. It should be noted that an additional 116 applications received by LATAM States remained pending at the cut-off date of 30 June 2023, this amounts to 29% of all applications received, compared with only 12% globally. In 2015, 10% of applications received by LATAM States were pending compared with 6% globally.

96. Annex 2 shows the average number of days taken to conclude applications received by each of the LATAM States and alongside information on the applications that remained pending.

b. Timing and outcomes

97. The graph below looks at the average time taken to reach different outcomes, from the date the application was received by the Central Authority, compared with the global average. For each outcome it took longer to resolve return applications received by LATAM States, compared with the global average.

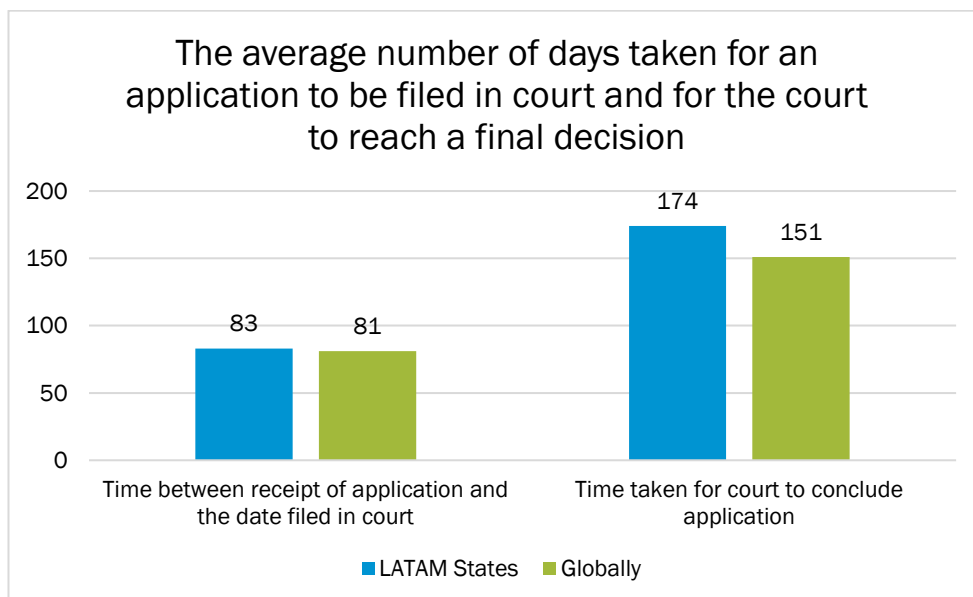


98. Applications received by LATAM States took longer on average to conclude than in 2015, when the average time taken was 172 days for a voluntary return, 184 days for a judicial order for return, and 325 days for an order refusing return.

99. In 2015 it also took longer to reach each outcome compared with the 2015 global averages of 108 days, 158 days and 245 days, respectively.

c. The time taken for Central Authorities to send the application to court and the time taken for the court to dispose of the case

100. The graph below shows the number of days taken for the application to be filed in court after its receipt by the Central Authority, and the subsequent number of days taken by the court to conclude the application on average. It should be noted that information on the date the application was filed in court was not always available and so the average time taken to send the application to court is based on 260 applications and the time taken for the court to conclude is based on 169 applications.



101. The time taken to send applications to court was faster than in 2015 when the average was 118 days but slower than in 2015 for the court to conclude them when the average was 167 days.

d. Timing and appeals

102. In LATAM States, the courts took an average of 150 days to resolve cases that did not involve an appeal²³ compared with 229 days for appealed decisions. This can be compared with 155 days and 208 days, respectively, in 2015. Globally, it took an average of 186 days for a court to resolve a case that was not appealed and 278 days to resolve a case that was appealed.

7. Access applications

103. In 2021, 68 access applications were received by 11 LATAM States. This was 17% of the 399 access application received globally and 14% of all the applications received by the LATAM States under the Convention. Of these, 41 came from fellow LATAM States (60%), compared with 33 out of 62 applications in 2015 (53%). Globally, 15% of applications made under the Convention were for access.

State	From LATAM States		From non-LATAM States		Total
	Number	Percentage	Number	Percentage	
Argentina	7	100%		0%	7
Chile	3	75%	1	25%	4
Colombia	4	33%	8	67%	12
Costa Rica	2	100%		0%	2
Ecuador	3	38%	5	63%	8
Guatemala	6	86%	1	14%	7
Mexico	3	50%	3	50%	6
Nicaragua	1	100%		0%	1
Paraguay	0	0%	1	0%	1
Peru	10	56%	8	44%	18
Uruguay	2	100%		0%	2
Total	41	60%	27	40%	68

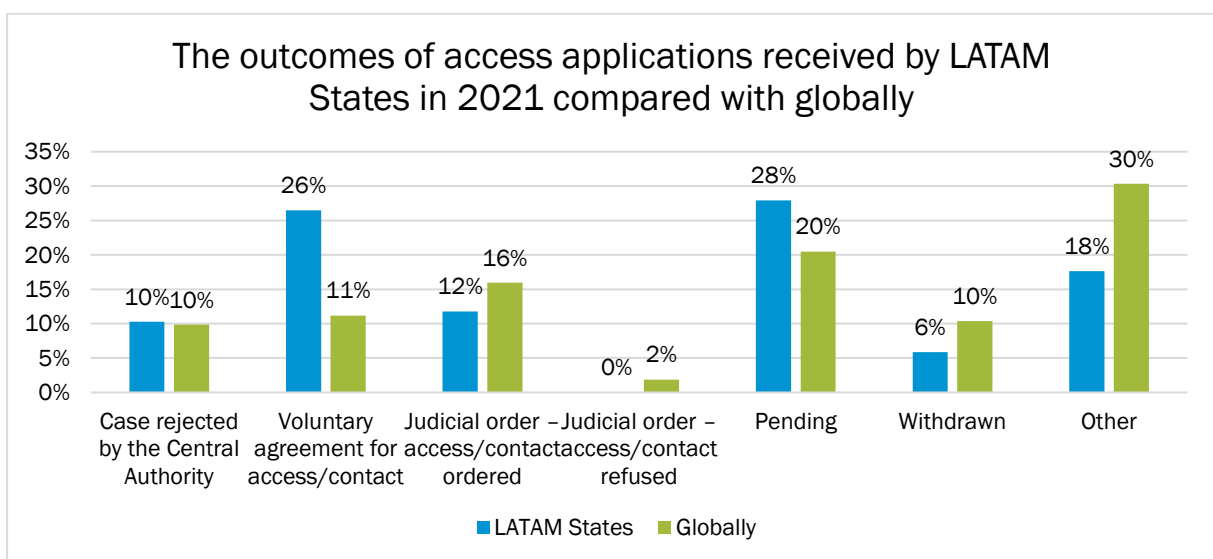
(a) Outcomes

104. Information on the outcome was known in all of the access applications received by LATAM States. The table and graph below compare these outcomes with the global averages. As can be seen, proportionally more access applications were either agreed or ordered than globally, 38% as against 27%.

²³

Data was available for 48 applications.

	Applications received by LATAM States		Global average	
	Number	%	Number	%
Case rejected by the Central Authority	7	10%	37	10%
Voluntary agreement for access/contact	18	26%	42	11%
Judicial order – access/contact ordered	8	12%	60	16%
Judicial order – access/contact refused	0	0%	7	2%
Pending	19	28%	77	20%
Withdrawn	4	6%	39	10%
Other	12	18%	114	30%
Total	68	83%	376	78%



105. The table and graph below compare the differences in outcome for applications received from LATAM and non-LATAM States.

	Applications received from LATAM States		Applications received from non-LATAM States	
	Number	%	Number	%
Case rejected by the Central Authority	2	5%	5	19%
Voluntary agreement for access/contact	13	32%	5	19%
Judicial order – access/contact ordered	4	10%	4	15%
Judicial order – access/contact refused	0	0%	0	0%
Pending	14	34%	5	19%
Withdrawn	2	5%	2	7%
Other	6	15%	6	22%
Total	41	100%	27	100%

(b) Timing

106. Information on timing was available for 24 applications which took an average of 261 days from the date of receipt by the Central Authority to the final decision. This can be compared with the global average of 301 days, though it should be noted that 28% of applications received by LATAM States remained pending at the cut-off date of 30 June 2023, compared with 20% Globally.

107. The average time taken to conclude an access application was 243 days if the application came from a LATAM State and 299 days if it came from a non-LATAM State.

Annex 1: Return applications received by LATAM States

State	From LATAM States		From non-LATAM States		Total
	Number	Percentage	Number	Percentage	
Argentina	12	86%	2	14%	14
Brazil	26	53%	23	47%	49
Chile	18	90%	2	10%	20
Colombia	61	90%	7	10%	68
Costa Rica	30	88%	4	12%	34
Ecuador	22	76%	7	24%	29
El Salvador	2	33%	4	67%	6
Guatemala	2	22%	7	78%	9
Honduras	5	36%	9	64%	14
Jamaica	0	0%	2	100%	2
Mexico	38	40%	58	60%	96
Nicaragua	8	89%	1	11%	9
Panama	3	100%	0	0%	3
Paraguay	20	83%	4	17%	24
Peru	19	66%	10	34%	29
Trinidad and Tobago	0	0%	1	100%	1
Uruguay	2	67%	1	33%	3
Venezuela (Bolivarian Republic of)	9	82%	2	18%	11
Total	277	66%	144	34%	421

Annex 2: The number of days taken to resolve an application from receipt by the Central Authority and the number of cases that remain pending

	Average number of days from receipt by Central Authority	Number of applications where information on timing available	Number of additional pending cases
Argentina	218	14	1
Brazil	363	24	12
Chile	166	17	3
Colombia	296	40	11
Costa Rica	171	29	0
Ecuador	434	3	25
El Salvador	166	5	1
Guatemala	N/A	N/A	5
Jamaica	400	1	0
Mexico	214	46	40
Nicaragua	206	9	1
Panama	227	2	1
Paraguay	197	14	2
Peru	458	6	12
Trinidad and Tobago	56	1	0
Uruguay	70	3	0
Venezuela (Bolivarian Republic of)	153	7	2
Total	239	221	116

C. ASIA-PACIFIC STATES

1. Introduction

108. As part of the 2008 Study, we analysed the operation of the Convention between Australia, Fiji and New Zealand ('the Australasia Report'). However, taking into account the growing number of Asia-Pacific States that had ratified or acceded to the 1980 Child Abduction Convention,²⁴ the 2015 Study analysed the operation of the Convention across the Asia-Pacific region as a whole. The 2021 Study now does likewise.

109. Unlike the other regions reported upon in the 2021 Study, there are no competing international instruments dedicated to child abduction.²⁵ This means that for Asia-Pacific States the 1980 Child Abduction Convention applies in exactly the same way regardless of whether the application is made by a fellow Asia-Pacific State or by a State from outside the region.

2. Executive Summary

110. Six Asia-Pacific States took part in the 2021 Study (Australia, China (Hong Kong and Macao), Japan, New Zealand, the Republic of Korea and Singapore) and they received a total of 60 return applications and which amounts to 3% of the 2,180 return applications received globally in 2021.

111. There was a higher return rate in applications received by Asia-Pacific States compared with the global average, 52% as against 39%. This was also found to be the case in the 2015 Study.

112. 5 applications received by Asia-Pacific States ended in a judicial order refusing the return of the child (8%), compared with 13% globally.

113. In 2021, 34 applications received by Asia-Pacific States went to court and 12 of these were appealed (35%), compared with the 2021 global average of 42%.

114. The average time taken to resolve a return application in Asia-Pacific States was 205 days from receipt by the Central Authority, as against 144 days in 2015. This can be compared with the global average of 207 days in 2021.

115. The responding Asia-Pacific States received 13 access applications in 2021, amounting to 3% of the 399 access applications received globally. At 18% of all the the return and access applications received by Asia-Pacific States, the proportion of access to return applications is greater than the global finding of 15% but this proportion is based upon a low number of applications overall.

3. The number of return applications received

116. The 6 responding States received a total of 60 return applications, which amounts to 3% of the 2,180 return applications received globally in 2021 and can be compared with 116 return applications received by 7 States in 2015 (5% of the global total).

117. Comparing the data from the States that responded to both to 2021 and 2015 Studies²⁶ there was a 46% decrease in the number of return applications in 2021 as against a 4% decline globally. The overall decline in the number of return applications received by Asia-Pacific States is substantially attributable to a big drop in applications to and from Australia (see further para. 118 below)

118. Of the applications received, 52% came from fellow Asia-Pacific States, compared with 41% in 2015. The first table below shows how these proportions varied by the State which received them in 2021 and the second table compares these findings with those for 2015.

²⁴ I.e., Australia, China (Hong Kong and Macao), Fiji, Japan, New Zealand, Philippines, the Republic of Korea, Singapore, and Thailand.

²⁵ Note: Australia is the only Asia-Pacific State that is party to the 1996 Child Protection Convention.

²⁶ That is, excluding from the 2015 Study, the data from Fiji.

Number of applications received by Asia-Pacific States in 2021

	From Asia-Pacific States		From Non-Asia-Pacific States		Total
	Number	Percentage	Number	Percentage	
Australia	8	53%	7	47%	15
China - Hong Kong SAR	1	50%	1	50%	2
China - Macao	0	0%	0	0%	
Japan	2	14%	12	86%	14
Korea, Republic of	0	0%	1	100%	1
New Zealand	18	75%	6	25%	24
Singapore	2	50%	2	50%	4
Total	31	52%	29	48%	60

Number of applications received by Asia-Pacific States in 2021 compared with 2015²⁷

	2015		2021	
	From Asia-Pacific States	From Non-Asia-Pacific States	From Asia-Pacific States	From Non-Asia-Pacific States
Australia	15	30	8	7
China - Hong Kong SAR	2	3	1	2
China - Macao	0	1	0	0
Fiji	4	0	NR	NR
Japan	5	16	2	12
Korea, Republic of	NR	NR	0	1
New Zealand	19	12	18	6
Singapore	2	1	2	2
Total	47	63	31	30

119. As can be seen from the above Table, in 2021 there was a significant decline in the number of return applications to and from Australia (down from 45 in 2015 to only 15 in 2021 with a particularly marked decline in the number of applications received from outside the region down from 30 in 2015 to 7 in 2021). Australia was not alone in seeing a decline in the number of return applications received from outside the region. New Zealand only received 6 such applications in 2021 as opposed to 12 in 2015 (although unlike Australia, applications from other Asia-Pacific States remained virtually identical – 18 in 2021 compared with 19 in 2015). Japan received 12 such applications in 2021 as opposed to 16 in 2015. It may reasonably be supposed that these findings are related to the effect of COVID-19 pandemic travel restrictions. Indeed, looking at the numbers for 2022, the number of return applications received by Australia increased to 30 overall.

4. Outcomes

a. Overall outcomes

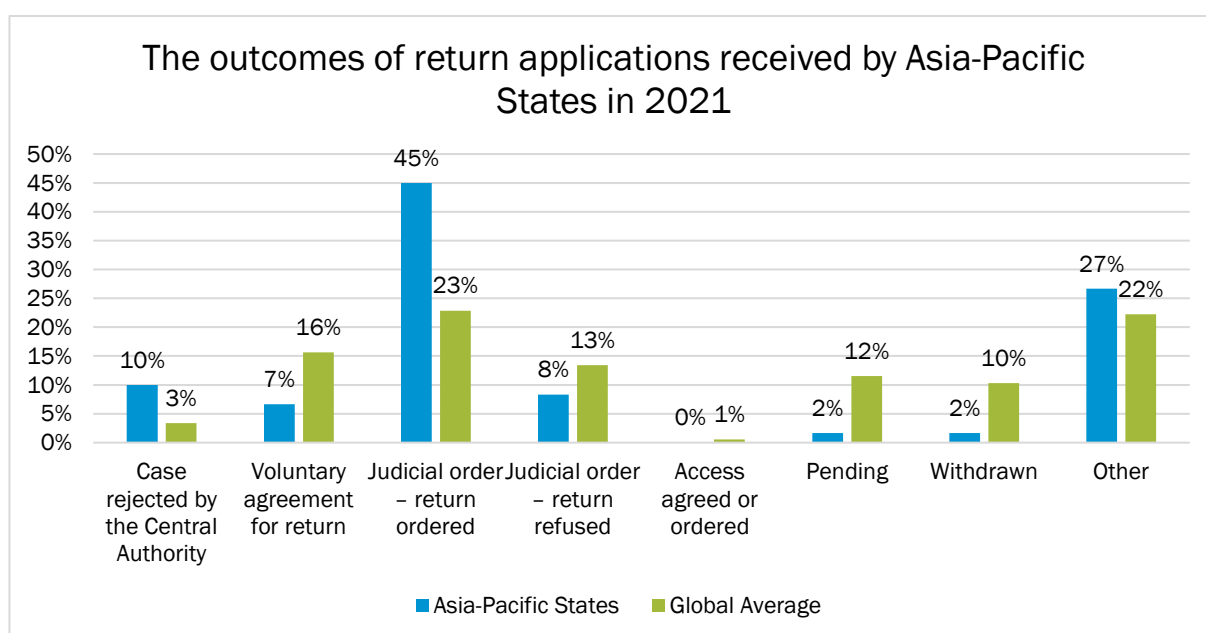
120. The table and graph below compare the outcomes of return applications received by Asia-Pacific States with the global averages.

²⁷ Note, no information was available on the origin of the six applications received by the Republic of Korea in 2015.

The outcomes of return applications received by Asia-Pacific States and global averages in 2021

	Applications received by Asia-Pacific States		Global average	
	Frequency	Percentage	Frequency	Percentage
Case rejected by the Central Authority	6	10%	71	3%
Voluntary agreement for return	4	7%	328	16%
Judicial order – return ordered	27	45%	479	23%
Judicial order – return refused	5	8%	281	13%
Access agreed or ordered	0	0%	12	1%
Pending	1	2%	242	12%
Withdrawn	1	2%	216	10%
Other	16	27%	466	22%
Total	60	100%	2,095	100%

121. As can be seen in the table above and the graph below, there was a higher return rate in applications received by Asia-Pacific States compared with the global average, 52% as against 39%. This was also found to be the case in the 2015 Study with 63% compared with the 45% global average.



b. The return applications decided in court

122. In 2021, 34 return applications received by Asia-Pacific States were decided in court (57%). 27 of these ended in an order for return (79%), 5 in a refusal to return (15%), One was closed due to a lack of response from the applicant and one because the child was traced to another State.²⁸

123. This can be compared with the global averages of 38% of return applications being decided in court, 59% ending in an order for return, 35% in a refusal and 5% in other outcomes.

c. Judicial refusals and reasons for refusal

124. In 2021, 5 applications received by Asia-Pacific States ended in a judicial order refusing the return of the child (8%), compared with 13% globally.

²⁸ In 2015, 78 applications received by Asia Pacific States went to court (67% of all applications). Of these, 75 reached a final court decision. 79% of these ended in an order for return, 19% in a refusal to return and 3% in other voluntary agreements.

125. The reasons for refusal were known for 3 of these applications. The first was refused based on the child not being resident in the Requesting State, the second based on Article 12 and the third based on both Article 13(1)(b) and the child's objections.

5. Appeals

126. In 2021, 34 return applications received by Asia-Pacific States went to court and 12 of these were appealed (35%). This can be compared with 24% in 2015²⁹ and the 2021 global average of 42%.

a. Outcomes on appeal

127. Of the 12 appealed return applications, 10 ended in an order for the return of the child (83%) and 2 in a refusal to return (17%). This can be compared with the 2015 Study where 61% ended in a return, 33% in a refusal and one application ended in a voluntary return (6%).

128. Globally, 46% of appealed return applications ended in a return, 39% in a refusal, 9% were pending and the remaining 7% ended in some other outcome including an order for access, a voluntary agreement for return or non-return, or the case being withdrawn by the appellant after the launching of the appeal.

129. Ten applications confirmed the first instance decision (83%) compared with 76% in 2015. The global average was 81%.

b. Multiple appeals

130. Three return applications received by Asia Pacific States were appealed more than once (25%), compared with 11% globally. In 2015, no return application was appealed more than once.

6. Timing

a. Overall timing from the date the application was received by the Central Authority to the date of the final outcome

131. The 49 return applications where information was available were resolved in an average of 205 days, as against 144 days in 2015. This can be compared with the global average of 207 days.

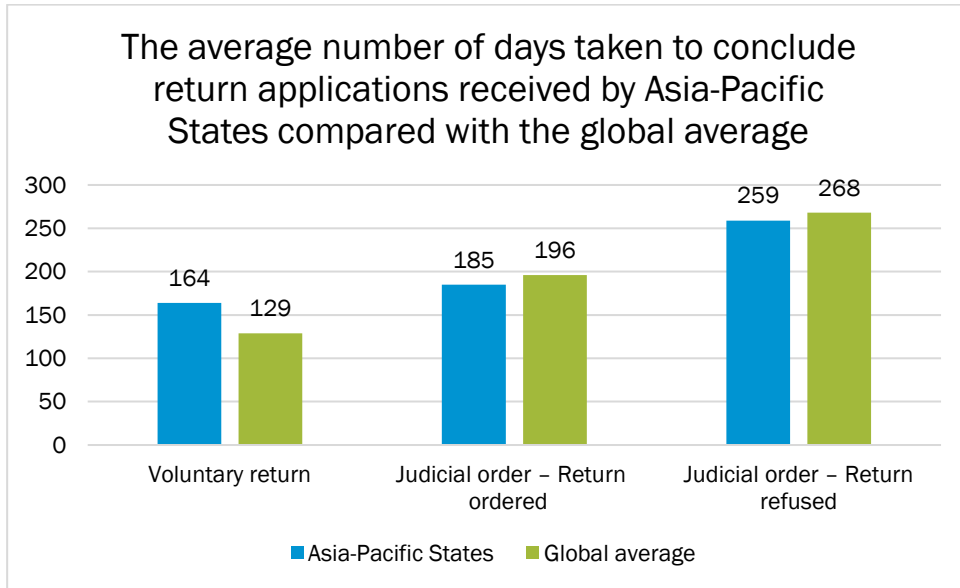
132. The graph below shows the average time taken to resolve applications in each State.

	Average number of days taken to final outcome from receipt by Central Authority	Number of applications where information on timing was available
Australia	309	14
China - Hong Kong SAR	102	1
Japan	221	6
Korea, Republic of	464	1
New Zealand	135	24
Singapore	200	3
Total	205	49

²⁹ In 2015, 78 applications received by Asia-Pacific States went to court and 19 of these were appealed.

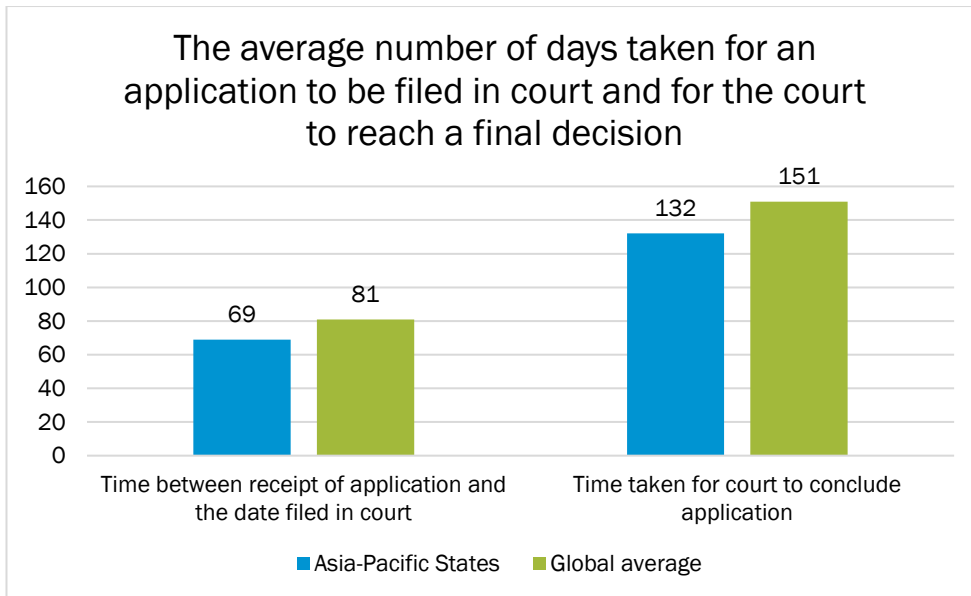
b. Timing and outcomes

133. The graph below looks at the average time taken to reach different outcomes, from the date the return application was received by the Central Authority, compared with the global average.



c. The time taken for Central Authorities to send the application to court and the time taken for the court to dispose of the case

The graph below shows that return applications received by Asia-Pacific States were both filed in court and reached a final court decision more quickly than the global average.³⁰



d. Timing and appeals

134. In Asia-Pacific States, the courts took an average of 188 days to resolve cases that did not involve an appeal compared with 274 days for appealed decisions. This can be compared with 88 days and 160 days, respectively, in 2015. Globally, it took an average of 186 days for a court to resolve a case that was not appealed and 278 days to resolve a case that was appealed.

³⁰ This was also the case in 2015, with applications taking an average of 144 days to conclude compared with the global average of 164 days.

7. Access applications

135. In 2021, 13 access applications were received by 5 Asia-Pacific States. This was 18% of all the applications received by the Asia-Pacific States under the Convention. Of these, 2 came from fellow Asia-Pacific States (15%), compared with 6 out of 31 applications in 2015 (19%). Globally, 15% of applications made under the Convention were for access.

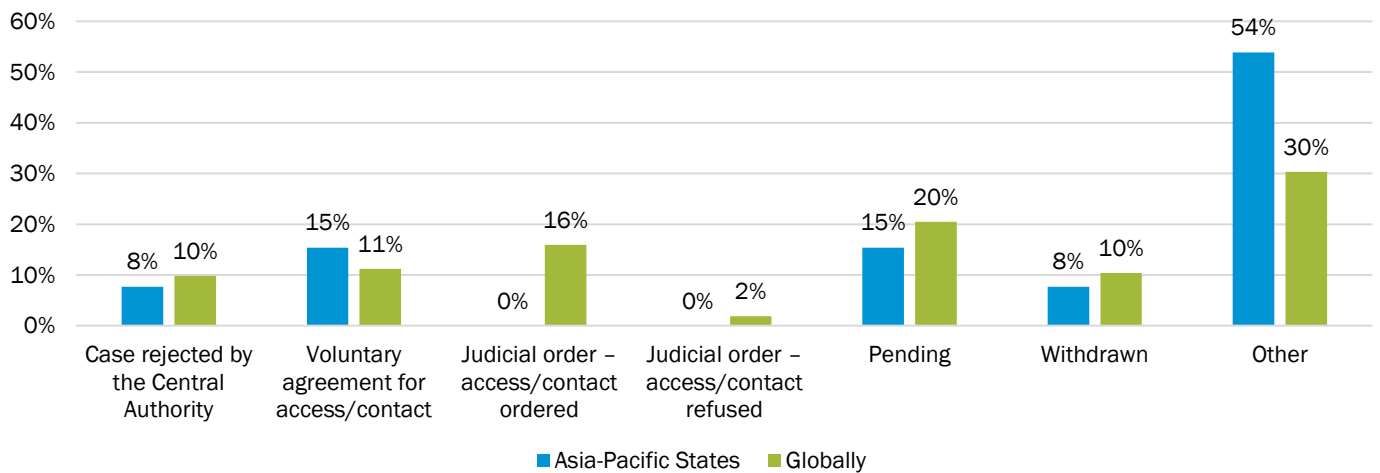
State	From Asia-Pacific States		From non- Asia-Pacific States		Total
	Number	%	Number	%	
Australia	1	25%	1	75%	4
China - Hong Kong SAR	0	0%	1	100%	1
Japan	1	17%	5	83%	6
Korea, Republic of	0	0%	1	100%	1
New Zealand	0	0%	1	100%	1
Total	2	15%	11	85%	13

(a) Outcomes

136. Information on the outcome was known in all of the access applications received by Asia Pacific States. The table and graph below compare these outcomes with the global averages. Strikingly, no access application had yet been determined judicially, although 2 applications ended with access being agreed.

	Applications received by Asia Pacific States		Global average	
	Number	%	Number	%
Case rejected by the Central Authority	1	8%	37	10%
Voluntary agreement for access/contact	2	15%	42	11%
Judicial order – access/contact ordered	0	0%	60	16%
Judicial order – access/contact refused	0	0%	7	2%
Pending	2	15%	77	20%
Withdrawn	1	8%	39	10%
Other	7	54%	114	30%
Total	13	100%	376	100%

The outcomes of access applications received by Asia Pacific States in 2021 compared with globally



(b) Timing

137. Information on timing was available for 7 access applications which took an average of 259 days from the date of receipt by the Central Authority to the date of the final outcome. This can be compared with the global average of 301 days.

138. Of these 7 access applications in which information about timing was available, only one came from a fellow Asia-Pacific State, which took 224 days to conclude. The average time for the remaining 6 applications from non-Asia-Pacific States was 265 days.